IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

JUDGMENT
IN
S.B. Criminal Appeal No.750/2002

1. Dinesh Kumar @ Leelu
S/o Shri Amarsingh @ Phool

2. Santra W/o Shri Amarsingh

3. Amarsingh @ Phool Singh
...Accused-Appellants
Versus
State of Rajasthan
...Respondent

Date of Judgment :::: 22nd May, 2007

PRESENT
Hon'ble Mr. Justice Narendra Kumar Jain

Shri Anshuman Saxena with
Shri Dinesh Yadav and
Shri Prakash Thakuriya and
Shri Amardeep Atwal, Counsel for accused-appellants
Smt. Nirmala Sharma, P.P., for the State

//Reportable//

By the Court:-

This appeal, on behalf of three appellants, namely, (1) Dinesh Kumar @ Leelu S/o Shri Amarsingh @ Phool, (2) Santra W/o Shri Amarsingh and (3) Amarsingh @ Phool Singh S/o Shri Kanhaiyalal, is directed against the impugned judgment and order dated 12.6.2002 passed by the Additional District & Sessions Judge No.2, Kishangarhbas (Alwar), in Sessions Case No.61/1999, whereby the trial court has convicted and sentenced each appellants as under:-

Under Section	***Sentence of Imprisonment***
304-B, IPC	To undergo 7 years rigorous imprisonment
498-A, IPC	To undergo 3 years rigorous imprisonment and a fine of Rs.3,000/-; in default of payment of fine, to further undergo six months additional simple imprisonment

Both the sentences were ordered to run concurrently.

Brief facts giving rise to this criminal appeal are that on 12.4.1999 Sarjitsingh (PW-3), the father of deceased Saroj, lodged a written-report (Exhibit P-1) at Police Station Tijara, alleging therein that marriage of his daughter Saroj took place on 11.6.1998 with Dinesh, Resident of Village Gothda; in the marriage he gave Rs.51,000/- in cash, and 'diwan' bed, sofa-set, Almira, freeze, cooler, television, sewing machine, 101 utensils, clothes etc. The gold and silver ornaments were also given. However, the bridegroom had shown his displeasure in marriage itself for not giving him Hero-Honda motorcycle in dowry. Thereafter Smt. Santra, the mother-in-law of his daughter, also taunted and disgraced her for not giving motorcycle in the marriage; her daughter told him all these when she came back from her matrimonial home. On her returning back to the matrimonial home, she was assured that he will fulfill their demand on

the occasion of birth of child. When Saroj again came back, she told that her in-laws are not agreeable to his proposal of giving motorcycle at the time of birth of child. Her mother-in-law Santra, father-in-law Amar Singh and husband Dinesh bitterly ill-treated Saroj at her matrimonial home. Smt. Saroj had been to her in-laws home for three or four times. Once Smt. Saroj also told him about their demand of cash amount to construct house by saying that, in case she wants to live in her matrimonial home, she will have to bring the cash amount for construction of house. It was further alleged in the written-report that on 24th December, 1998 when his son Srawan Kumar went to Gothda to bring her, he was told by her in-laws that unless their demand is fulfilled, they need not come there. They even did not offer food to Srawan and Saroj and ousted them therefrom without providing food. It was further stated in the written-report that on 7.4.1999 Dinesh (husband), accompanied by his friend, came and they took Saroj with them. His daughter was weeping and telling him that she has every apprehension of her life. On 8th April, 1999 his son Srawan Kumar had gone to Kakrali to meet her paternal aunt (Bhua) and to bring tractor for crop; he came back through village Gothda meeting with Saroj, who told him that she has been beaten bitterly by her in-laws and even has not been provided food. She also

shown him number of injuries on her person. She requested my son to send me there. He planned to go on 11.4.1999 i.e. holiday being Sunday. However, on 10.4.1999 itself he received a news from his brother-in-law Ratiram that Saroj has been set on fire by her in-laws and she has been killed. Thereafter they went to village Gothda and saw the dead body of Saroj badly burnt. Upon seeing her dead-body, he suffered mental shock and could not lodge the report immediately. He prayed for legal action in the matter immediately.

On the basis of above written-report, FIR No.135/1999 was registered at Police Station Tijara under Sections 498-A and 304-B, IPC, and investigation commenced.

It is relevant to mention that Exhibit P-10, the written-report, had already been lodged in the matter on 10.4.1999 at Police Station Tijara by one Matadeen Yadav to the effect that Smt. Saroj W/o Dinesh Yadav, whose marriage took place about 10 months ago, has set herself on fire and died due to burns. A murg FIR No.16/99 was registered under Section 174, Cr.P.C. and an enquiry was made. The site plan (Exhibit P-6) was prepared on 10.4.1999, according to which the dead-body was lying in a Pauli/ Chowk (courtyard). Postmortem of dead-body was conducted and its report is Exhibit P-13; at Serial No.11 of part IV thereof, it has been mentioned

that 'uterus pregnant about twenty weeks size' - External genital organs burnt. The medical board gave the following opinion about cause of death:-

> "Cause of death - In our opinion death has occurred as a result of shock due to extensive burn of whole body - Ante-mortem in nature - Duration - within 24 hours."

After completion of investigation, the police filed a charge-sheet. The trial court framed charge against the appellants under Sections 498A and 304B of the Indian Penal Code, which were denied and the trial was claimed.

The prosecution, in support of its case, examined PW-1 to PW-14 and also produced documentary evidence Exhibit P-1 to Exhibit P-13. The accused persons, in their statements recorded under Section 313, Cr.P.C. stated that they have falsely been implicated. However, the defence examined no witness.

The trial court, after appreciating the evidence on the record as well as arguments of both the parties, convicted and sentenced the accused-appellants, as mentioned above.

Shri Anshuman Saxena, the learned counsel for the appellant contended that there is a delay of 54 hours in lodging the FIR, which has not been explained by the prosecution satisfactorily and the said delay is fatal to the prosecution case. He contended that

Smt. Saroj died on 10th April, 1999, whereas the report was lodged on 12th April, 1999, despite the fact that complainant was present even during enquiry under Section 174, Cr.P.C. before the Sub Divisional Magistrate and the police officers, therefore, the delay in lodging the FIR creates doubt on the prosecution case.

He further contended that from the prosecution evidence the demand of dowry is not proved beyond all reasonable doubts. There are material contradictions in prosecution case in respect of demand of dowry. And, in view of the contradictions, the testimony of the prosecution witnesses is liable to be discarded; in his submission, in case the demand of dowry is not proved, the entire prosecution case goes and accused-persons are entitled to the benefit of doubt and they are liable to be acquitted.

He further contended that there is no credible evidence to prove that the deceased was subjected to cruelty or harassment soon before her death for, or in connection with, demand for dowry, and in absence thereof the presumption under Section 113-B of the Indian Evidence Act, cannot be raised against the appellants; the prosecution has failed to prove the charge against the accused-appellants beyond all reasonable doubts, therefore, they are entitled to be acquitted.

He further contended that all the prosecution witnesses, whose statements have been believed by the trial court, are only interested witnesses. No independent witnesses or neighbours, who could have been the best evidence, have been examined in the case on behalf of the prosecution and, therefore, the prosecution evidence cannot be relied upon in the facts and circumstances of the present case. It is further contended that from the statement of PW-9 Arunkumar, brother of the deceased, it has come on the record that deceased used to write letters to him but the said letters have not been produced in the case in order to prove the charge against the appellants and, in absence of those letters, the prosecution case becomes doubtful. In view of the above submissions, the learned counsel for the appellants contended that the trial court has committed an illegality in convicting the appellants and the impugned judgment and order passed by the trial court is liable to set aside.

In support of his contentions, the learned counsel for the appellants also cited the following decisions:-

1. Appasaheb & Another v. State of Maharashtra - (2007 AIR SCW 456);

2. *Sunil Bajaj Vs. State of M.P., 2001 Cri.L.J. 4700;*
3. *Hira Ram & Another v. The State of Rajasthan - 2004 (2) Cr.L.R. (Raj.) 1417;*
4. *Arvind Singh v. State of Bihar - 2001 Cri.L.J. 2556 (SC)*,

In Appasaheb & Another v. State of Maharashtra - (2007 AIR SCW 456), the Hon'ble Supreme Court considered the meaning of 'dowry' as defined under Section 2 of the Dowry Prohibition Act with reference to Section 304-B, IPC, and held that a demand for money on account of some financial stringency or for meeting some urgent domestic expenses are not covered within the meaning for demand for dowry. The ratio of decision of the Hon'ble Supreme Court laid down in Appasaheb's case (supra) is not applicable in the facts and circumstances of the present case.

In *Sunil Bajaj Vs. State of M.P., 2001 Cri.L.J. 4700,* the Hon'ble Supreme Court in Para No.11 of the judgment, held as under:-

> "11. It is unfortunate that trial Court did not properly and objectively consider the evidence to reach a conclusion that the appellant was guilty of the offence. It may be also noticed here that the appellant was acquitted for the charge under Section 306 IPC. The High Court, as already stated above, did not re-appreciate the evidence as first Court of

> appeal on criminal side and has disposed the appeal in a summary way, confirming the order of conviction and sentence passed by the trial Court. In the light of what is stated above, in our view, both the Courts committed serious and manifest error in concluding that the appellant was guilty of the offence when the crucial and necessary ingredient that the deceased Suman was subjected to cruelty or harassment by him soon before her death for or in connection with demand of dowry was not established and also looking to the evidence and circumstances cumulatively. Under these circumstances, the impugned judgment is unsustainable as it suffers from infirmity and illegality as indicated above."

The above referred case will reveal that it has been decided on the basis of evidence available in that case and the same cannot be made applicable in view of different evidence of the present case.

In Hira Ram & Another v. The State of Rajasthan – 2004 (2) Cr.L.R. (Raj.) 1417, a Division Bench of this Court on the basis of facts and circumstances of that particular case, came to a conclusion that there is no satisfactory explanation of delay in filing the first information report. However, in the present case the delay in lodging the first information report has been explained satisfactorily. The question of delay and sufficient cause thereto depends on facts and

circumstances of each case and so far as the present case is concerned the delay has been explained satisfactorily by the prosecution.

In Arvind Singh v. State of Bihar - 2001 Cri.L.J. 2556 (SC), the Hon'ble Apex Court held as under:-

> "21. Mr. H.L. Agrawal, learned senior Advocate, however, emphatically contended that considering the hour of the day and the factum of the wife being burnt and no other explanation coming forth, question of the husband escaping the liability of murder does not and cannot arise. We are however, unable to lend our concurrence to the aforesaid. While it is true that husband being the companion in the bedroom ought to be able to explain as to the circumstances but there exist an obligation on the part of the prosecution to prove the guilt of the accused beyond all reasonable doubt. Criminal jurisprudential system of the country has been to that effect and there is neither any departure nor any escape therefrom."

The facts and circumstances of the present case, which will be discussed later on, will reveal that the prosecution has proved the charge against the appellants beyond all reasonable doubts and the above referred decisions, cited by the learned counsel for the appellants, are not applicable in the facts and circumstances of the present case.

Per contra, the learned Public prosecutor

contended that there is overwhelming prosecution evidence in the present case to prove the charge against the appellants. Exhibit P-6 and Exhibit P-8 both clearly reveal that dead-body of deceased was found in open Chowk i.e. Pauli (courtyard) and this fact shows that the deceased was killed by the accused-appellants and she did not commit suicide. The death in the present case happened within a period of 10 months of marriage of the deceased. The postmortem-report of the deceased shows that the deceased was pregnant by twenty weeks and she died as a result of shock due to extensive burns of whole body.

It is further contended that from the statements of PW-3 Sarjitsingh, PW-7 Smt. Ramgiri and PW-9 Arunkumar, it is clear that for about four months the deceased remained at her parental home with her parents and on 7.4.1999 the deceased was sent with her husband Dinesh to her matrimonial home. The deceased was weeping and telling her father PW-3 Sarjitsingh that she has apprehension of her life because of their non-fulfilling demand of dowry in connection with her marriage. On 8.4.1999 elder son of PW-3 Sarjitsingh had gone to village Kakrali and came through village Gothda and met Saroj, who stated him that she was beaten by her in-laws and also shown him her injuries. He told his father that Saroj has called him. PW-3 Sarjitsingh planned to meet his daughter on Sunday

i.e. 11.4.1999 but on 10.4.1999 itself he received a message that his daughter Saroj has been killed by her in-laws. It is, therefore, contended that there is sufficient evidence to prove that deceased was subjected to cruelty for, or in connection with, demand for dowry, soon before her death and a presumption can be drawn under Section 113-B of the Indian Evidence Act that it is a case of dowry death. It is further contended that the learned trial court has rightly convicted and sentenced the accused-appellants and this is not a fit case for interference by this Court.

I have considered the submissions of learned counsel for both the parties and examined the impugned judgment as well as the record of the trial court.

The undisputed facts are that on 11.6.1998 deceased Saroj was married to appellant Dinesh resident of village Gothda; she died on 10.4.1999 i.e. within ten months of her marriage due to extensive burns on whole body, at her matrimonial home; a murg FIR was lodged on 10.4.1999; the site-plan was also prepared on 10.4.1999 itself; the written-report (Exhibit P-1) was lodged on 12.4.1999 by PW-3 Sarjitsingh.

The above facts revealed that Smt. Saroj died within 7 years of her marriage and her death was unnatural. This is a matter relating

to offence under Section 304B as well as 498A of the Indian Penal Code, therefore, it will be relevant to refer and quote both the Sections, as under:-

> "**304B. Dowry death**.- (1) Where the death of a woman is caused by any burns or bodily injury or occurs otherwise than under normal circumstances within seven years of her marriage and it is shown that soon before her death she was subjected to cruelty or harassment by her husband or any relative of her husband for, or in connection with, any demand for dowry, such death shall be called "dowry death", and such husband or relative shall be deemed to have caused her death.
>
> Explanation.- For the purposes of this sub-section, "dowry" shall have the same meaning as in section 2 of the Dowry Prohibition Act, 1961 (28 of 1961).
>
> (2) Whoever commits dowry death shall be punished with imprisonment for a term which shall not be less than seven years but which may extend to imprisonment for life."
>
> "**498A. Husband or relative of husband of a woman subjecting her to cruelty**.- Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty, shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.
>
> Explanation.-For the purposes of this section, "cruelty" means-
>
> (a) any willful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life,

> limb or health (whether mental or physical) of the woman; or
>
> (b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand."

Section 113-B of the Evidence Act is also relevant to be referred an the same is also reproduced as under:-

> "**113B. Presumption as to dowry death**.- When the question is whether a person has committed the dowry death of a woman and it is shown that soon before her death such woman had been subjected by such person to cruelty or harassment for, or in connection with, any demand for dowry, the Court shall presume that such person had caused the dowry death.
>
> Explanation.- For the purposes of this Section, "dowry death" shall have the same meaning as in Section 304B of the Indian Penal Code (45 of 1860)."

In order to convict an accused for an offence under Section 304B, IPC, the following ingredients must be satisfied in a case:-

(1) the death of a woman must have been caused by burns or bodily injury or otherwise than under normal circumstances;

(2) such death must have occurred within 7 years of her marriage;

(3) soon before her death, the woman must have been subjected to cruelty or harassment by her husband or by relatives of her husband;

(4) such cruelty or harassment must be for or in connection with demand of dowry.

If the aforementioned ingredients are established by acceptable evidence in a case then such death of a woman shall be called “dowry death” and such husband or his relative will be deemed to have caused her death. It is relevant to mention that punishment for the offence of dowry death u/s.304B, IPC, is imprisonment of not less than 7 years, which may extend to imprisonment for life. Unlike under Section 498A, IPC, husband or relative of husband of a woman subjecting her to cruelty shall be liable for imprisonment for a term which may extend to three years and shall also be liable to fine. Normally, in a criminal case accused can be punished for an offence on establishment of commission of that offence on the basis of evidence, may be direct or circumstantial or both. But in case of an offence under Section 304B, IPC, an exception is made by deeming provision as to nature of death as “dowry death” and that the husband or his relative, as the case may be, is deemed to have caused such death, even in the absence of evidence to prove these aspects but on proving the existence of

the ingredients of the said offence by convincing evidence. Hence, there is need for greater care and caution, that too having regard to the gravity of the punishment prescribed for the said offence, in scrutinizing the evidence and in arriving at the conclusion as to whether all the above mentioned ingredients of the offence are proved by the prosecution.

The learned counsel for the accused-appellant does not dispute that first two ingredients of the offence under Section 304-B, IPC, are fully proved in the case, but, so far as third and fourth ingredients as discussed above that Saroj was subjected to cruelty or harassment by the appellants soon before her death for, or in connection with, the demand for dowry, are concerned, it is contended on behalf of the appellant that the same are not proved, and in absence of consistent evidence in this regard a presumption under Section 113-B of the Indian Evidence Act cannot be drawn against the appellants and the entire burden lies on the prosecution to prove the charge against them in the present case.

In view of the above position of law as well as the contentions of the learned counsel for the appellants, it is necessary to discuss the prosecution evidence in respect of these two ingredients of the offence under Section 304B, IPC, that Saroj was

subjected to cruelty or harassment soon before her death by the appellant and the the said cruelty or harassment was for, or in connection with, demand for dowry, in connection with her marriage.

The prosecution has examined PW-1 to PW-14 and exhibited documents Exhibit P-1 to Exhibit P-13 to prove the charge against the appellants.

In connection with the third and fourth ingredients of offence under Section 304-B, IPC, as referred above, it is to be noted that the lady, who could be the best person to speak about such demands, as the demands were allegedly made to her, is no more, the only remaining evidence can be of her parents and brother or sister to whom she would be supposed to mention about their demands in order to ascertain if they could make the same. PW-3 Sarjitsingh, (father), PW-7 Smt. Ramgiri (the mother), PW-9 Arunkumar (brother) have been examined in the case.

PW-3 Sarjitsingh has stated that his daughter Saroj was married to Dinesh on 11.6.1998 and in the marriage he gave sufficient dowry viz. freeze, television, cooler, sewing machine, watch etc., and gold and silver ornaments and about eighty thousand rupees in cash including Rs.51,000/- in 'lagan'. However, he could not give motorcycle and soon after 'saptapadi', a demand of motorcycle was raised. He shown his inability to give motorcycle in dowry.

However Saroj went to her matrimonial home. After 5-7 days she came back and told about the displeasure of her in-laws about less dowry and non-giving of motorcycle. The deceased also told him about the demand of her in-laws of cash money for construction of house by saying that they will permit her to live in her matrimonial home only when she will bring money (not as a loan or on refundable basis) for construction of the house. On 24th or 25th of December, 1998, his son Srawan Kumar brought Saroj from her matrimonial home. On coming back, his son told him about ill-treatment and misbehaviour of her in-laws with Saroj. Saroj remained with him for about three months. However, on 7.4.1999 her husband Dinesh came and Saroj was sent with him to her matrimonial home. Saroj was not happy and she was weeping and repeatedly telling him to come to Gothda to discuss about fulfilling their demand for dowry with her in-laws. On 8.4.1999 his elder son had gone to village Kakrali to bring Tractor-trolley and he came back through village Gothda after meeting with Saroj, who, on seeing him, started weeping and told that she was ill-treated in night and also beaten bitterly. She also shown to her brother the injuries on her body. He planned to go and meet with Saroj on 11.4.1999 i.e. Sunday, but on 10.4.1999 itself he received a message that she has been killed. Similar is the statement of PW-7 Smt.

Ramgiri, the mother of the deceased.

From the statements of PW-3 and PW-7 it is also apparent that they stated that they will fulfill the remaining demand for dowry at the time of birth of child of Saroj, who was pregnant at the time she left for village Gothda with her husband on 7.4.1999.

PW-9 Arunkumar, in addition to other facts about demand for dowry, further stated that on 8.4.1999 he had gone to village Kakrali and he returned back through village Gothda and met his sister; when he reached there, she started weeping. On his asking the reason, she told that her mother-in-law, father-in-law and husband used to tease and taunt her and insisting for Hero Honda motorcycle as well as cash amount for raising construction of house. She also made a complaint that she has not been even provided with food properly by Dinesh, Amarsingh and Santra.

In view of the statements of PW-2, PW-3, PW-7 and PW-9 it is clear beyond all reasonable doubts that deceased Saroj was subjected to cruelty and harassment soon before her death for, or in connection with, demand for dowry relating to her marriage. The demand of motorcycle was made in the marriage itself and cash-amount for raising construction of the house, which also amounts to dowry, as this demand of cash amount was not raised as a loan or on refundable

basis, but it was made by saying that in case she wants to live in her matrimonial home then she had to bring the amount for raising construction of the house also. The demand of dowry in the present case, made in the marriage and subsequently, continued till death of deceased and on that account the deceased was subjected to cruelty and harassment by the appellants. In these circumstances the prosecution has proved the charge of Section 304B as well as 498A, IPC, beyond all reasonable doubts and I do not find any illegality or perversity in the finding of the learned trial court, who has also appreciated the prosecution evidence, in detail, and convicted the accused-appellants.

The above discussion of the prosecution evidence shows that all the ingredients of Section 304-B, IPC, are fully proved in the present case and thus a presumption can easily be drawn under Section 113-B of the Indian Evidence Act against the appellants and it can safely be held that it is a case of dowry death. Although this presumption was subject to rebuttal and in this connection onus was on the accused-appellants to rebut the presumption by producing evidence in this regard. The appellants neither examined any witness nor produced any documentary evidence in defence nor cross-examined the prosecution witnesses in this regard in order to prove

even probability, therefore, it is clear that defence has failed to discharge its burden or to rebut the presumption raised against them in the case.

It is also relevant to mention that it is not a case where Saroj alone died but she was pregnant also on the date of her death. PW-7 Smt. Ramgiri has stated in her statement that Saroj was pregnant at the time she was sent to her matrimonial home i.e. 7.4.1999. Her statement is also corroborated by the postmortem report (Exhibit P-13), wherein it was stated by the Medical-Board that her uterus was pregnant about 20 weeks size.

So far as the contention of the learned counsel for the appellants about delay of 54 hours in lodging the FIR, it is sufficient to mention that PW-3 Sarjitsingh has specifically mentioned that Saroj was his only daughter and soon he saw her dead-body he was shocked and therefore the delay occurred in loding the FIR; in these circumstance, the delay of 54 hours cannot be said to be fatal to the prosecution case.

The learned counsel for the appellants pointed out certain contradictions in the statements of PW-3 and PW-7 about demand for dowry by contending that initially the demand of motorcycle was made by Dinesh, but, subsequently during trial, PW-3 Sarjitsingh stated that the demand of motorcycle was made by Amarsingh. However, there is no dispute that the

demand of motorcycle was made at the time of marriage itself and in these circumstances this contradiction cannot be said to be material or fatal to the prosecution case.

The another submission of the learned counsel for the appellant that there is no credible evidence in respect of third ingredient of offence under Section 304-B, IPC, that deceased was subjected to cruelty or harassment, soon before her death, for, or in connection with, demand for dowry. This submission was based on the earlier contentions that in view of the material contradictions as pointed out by the learned counsel for the appellants it should be presumed that there was no demand for dowry and in case it is presumed that there was no demand for dowry then no question does arise of proving of third and fourth ingredients of offence under Section 304B, IPC. In this connection it is sufficient to mention that the contradictions pointed out by the learned counsel for the appellants in the statements of the prosecution-witnesses are not material and serious and the fact of demand for dowry is fully proved in the present case. There is no inconsistency in the prosecution evidence that a demand of motorcycle was made at the time of marriage itself and it continued till the death of the deceased. The another demand of dowry was in respect of cash money for raising

construction of the house and that amount was not demanded as a loan or on refundable basis but it was demanded from the deceased by saying that in case she wants to live in her matrimonial home then she will have to bring the cash amount for raising construction of the house, therefore, it was nothing but a demand of dowry itself in connection with the marriage.

So far as non-production of so-called letters alleged to have been written by the deceased to her brother PW-9 Arunkumar is concerned, it is sufficient to mention that non-production thereof is not/cannot be said to be fatal to the prosecution case for the reason that there is sufficient evidence available on the record to prove the charge of offence under Section 304B, IPC, against the appellants and, even if, these letters have not been produced then the same is not going to affect the prosecution case in any manner.

The next contention of the learned counsel for the appellants regarding non-examination of independent-witnesses and neighbours by the prosecution, is concerned, the law is settled on the point that in case the sole testimony of the prosecution witness is trustworthy, the same can be relied upon and it is the quality of the witness and not the quantity, which is relevant. In this context, Section 134 of the Evidence Act is also relevant to be

referred in the present case, which prescribes that no particular number of witnesses shall in any case be required for the proof of any fact. The Hon'ble Supreme Court in Maqsoodan v. State of U.P. - AIR 1983 SC 126 has held that it is not the number of witnesses but the quality of evidence that counts.

The statements of PW-3, PW-7 and PW-9 are sufficient to prove the charge of the offence against the appellants, as their statements are trustworthy and there is no reason to disbelieve their testimony.

The Hon'ble Supreme Court in Devinder Singh and Others v. State of Punjab – (2005) 12 SCC 104, has held that deceased would be the best person to speak about demand of dowry but where she is no more, then the only remaining evidence can be that of the parents of the deceased to whom she would be supposed to mention about such demands in order to ascertain if they could meet the same.

In view of the above discussion and reasons, I do not find any merit in any of the contentions of the learned counsel for the appellants. The deceased died within 10 months of her marriage as a result of shock due to extensive burns of whole body, for, or in connection with, demand for dowry, and she was subjected to cruelty and harassment soon before her death and she was pregnant for about 20 weeks size at

the time of her death, therefore, the sentence of imprisonment awarded by the trial court cannot be said to be excessive rather the sentence of imprisonment of 7 years is the minimum provided for the offence by the Legislature, which cannot be interfered with in any manner.

In view of the above discussion and reasons, I do not find any merit in the appeal and the same is accordingly dismissed.

The appellant Dinesh is on bail. His bail-bonds are cancelled. He is directed to surrender himself before the trial court immediately and in case he fails to surrender himself before the trial court then the trial court to ensure his arrest and further to ensure that he serves out the remaining sentence of imprisonment.

(Narendra Kumar Jain) J.

//Jaiman//